

§ 228.61

36 CFR Ch. II (7–1–10 Edition)

National Environmental Policy Act (42 U.S.C. 4321 *et seq.*).

(d) *Acreage and permit limitations.* A prospecting permit may not cover more than 640 acres. No individual or group may have an interest at any one time in more than three prospecting permits on Forest Service lands administered by one Forest Supervisor.

(e) *Duration and extension of permits.* Prospecting permits may be issued for a period not to exceed 24 months, but they may be extended once for up to an additional 24 months if necessary to complete prospecting. Any application for extension must be submitted no later than 30 days before the expiration of the permit. The application for extension must provide evidence of diligence and state the reasons why additional time is considered necessary to complete prospecting work.

(f) *Refusal to extend permits.* The authorized officer may reject applications for extension of prospecting permits for the following reasons:

(1) *Failure to perform.* Failure of the permittee to perform prospecting or exploration work without adequate justification may result in the denial of an extension; or

(2) *Failure to apply.* If an application for extension is not submitted within the specified period, the permit may expire without notice to the permittee.

(3) *Public interest.* If the authorized officer determines that an extension may not be in the public interest, the application may be rejected.

§ 228.61 Preference right negotiated sales.

(a) *Qualification for sale.* When applying for a preference right negotiated sale, the permittee must demonstrate to the satisfaction of the authorized officer that a suitable deposit of mineral material has been discovered within the area covered by the prospecting permit. Information concerning trade secrets and financial matters submitted by the permittee and identified as confidential will not be available for public examination except as otherwise agreed upon by the permittee.

(b) *Application for sale.* The application must be submitted to the District Ranger's office on or before the expiration date of the prospecting permit or

its extension. The authorized officer may grant 30 additional days for submitting the application if requested in writing by the permittee before expiration of the prospecting permit or its extension.

(c) *Terms and conditions of contract.* The terms and conditions will be evaluated on an individual case basis. Only those mineral materials specified in the contract may be removed by the purchaser. Before a preference right negotiated contract is awarded, the authorized officer must ensure that an environmental analysis is conducted. All contracts are subject to the conditions under §§ 228.47 through 228.56.

(d) *Acreage limitations.* The authorized officer will determine the amount of acreage in the preference right negotiated sale based on a presentation of the permittee's needs. The maximum acreage allowable to any individual or group must not exceed 320 acres on National Forest lands administered by one Forest Supervisor. The allowable acreage may be in one or more units which are not necessarily contiguous.

(e) *Volume limitations.* Preference right negotiated sales are exempt from volume limitations.

(f) *Contract time allowable.* A contract or a renewal must not exceed 5 years; however, the purchaser may have renewal options at the end of each contract or renewal period. The authorized officer may renew a contract if it is determined that the renewal is not detrimental to the public interest and that the purchaser has demonstrated diligence in conducting operations. The authorized officer may cancel the contract, or the purchaser may forfeit the contract, if no substantial commercial production occurs during any continuous 2-year period after the award of the contract or if the contract terms and conditions are breached. However, if a delay is caused by conditions beyond the purchaser's control, the authorized officer may grant an extension equal to the lost time.

(g) *Contract renewal reappraisal.* At the time of contract renewal, the authorized officer will reappraise the mineral material deposit in accordance with § 228.49.